IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6748 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GALAJI DHARMAJI KOTARA

Versus

STATE OF GUJARAT

Appearance:

MR LN MEDIPALLY for Petitioners

Mr.Digant P. Joshi for M/S PATEL ADVOCATES for Respondent No. 1

NOTICE SERVED for Respondent No. 2

MR BP TANNA for Respondent No. 3

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 09/03/2000

ORAL JUDGEMENT :

This is the petition, wherein the petitioners were appointed on daily wages by respondent no.2 in different years and on different posts, challenging the

action of the respondent authorities on the ground that the petitioners are paid only Rs.15.25 per day, as against their entitlement for payment at par with regular or permanent employees, who were getting pay scale of Rs.196- 260/-. It is the case of the petitioners that they had been in service for the last five years and that they have put in five years continuous and unreakable service (service without break) as daily wagers. Mr.Medipally for the petitioners submitted that they have put in necessary service so as to be entitled to get regularisation. He has relied upon the judgement of the Honourable Supreme Court in Dhirendra Chamoli and another. v. State of U.P., (1986) 1 SCC 637. He has also relied upon the decision in the case of Surinder Singh and another v. Engineer in Chief, CPWD and others, (1986) 1 SCC 639. It is the case of the petitioner that under the Govt. Resolution bearing No.DRE /1673/ 1/G dated 22.6.1973, he is entitled to regularisation.

2. However, an affidavit is filed on behalf of respondent no.2 by one Shri B.V. Shah, Engineer, Vijay Nagar, wherein it is specifically pointed out that the petitioners have put in service, the details of which are set out at Annexure II and it is specifically mentioned that average presence of the petitioners during five years was short of 240 days and therefore, they are not entitled to the benefits. Government Resolution dated 16.11.1973 is also produced wherein it is specifically provided that if a daily wager worked for at least 180 days in a calender year, it will be considered that he has put in 1 year service. However, it is further provided that for considering his services as a daily wager for five years an average 240 days is necessary and only then he will be entitled to be placed on work charged establishment. In that view of the matter, the claim of the petitioner cannot be accepted in this petition.

3. However, at this point, Mr.Medipalli produced a copy of the Govt. Resolution dated 17.10.1988, which was based on the report of the Honourable Minister, Shri Daulat Parmar's Committee. Mr.Medipalli submits that the case of the petitioners may be examined in the light of the aforesaid Govt. Resolution and the benefits flowing from that resolution may be accorded to the petitioners. The request of the learned advocate for the petitioners is just and reasonable. It will, therefore, be in the interest of justice that the petitioners may make a representation pointing out the facts of their individual case and also the facts on which they seek benefits under the said Resolution dated 17.10.1988. The authorities

are directed to consider such representation made by the petitioners sympathetically in the light of the contents of the Govt. Resolution dated 17.10.1988. The petitioners shall file a representation along with a copy of this order within four weeks from the date of receipt of this order and the authorities shall decide the same within eight weeks from the receipt of the representation.

4. The petition stands disposed of with the above directions. Rule is discharged with no order as to costs.

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